

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ALAN GORDON,

Plaintiff,

v.

ROBIN L. CRAVER, FREDERICK C.  
SWENSEN, and TOWN OF CHARLTON,

Defendants.

CIVIL ACTION  
NO. 4:17-cv-40013-DHH

**Order**

**November 21, 2017**

Hennessy, M.J.

Plaintiff's motion to compel discovery, Docket #23, is now before the Court. Defendants opposed the motion, Docket #24, and Plaintiffs filed a reply, Docket #25. The Court held a hearing today at which it heard arguments from both parties. With the parties' consent, the Court also reviewed five unredacted documents in camera to assess the propriety of Defendants' redactions to them. The Court then discussed those redactions with Defendants' counsel ex parte.

As agreed by the parties during today's motion hearing, the Court GRANTS IN PART AND DENIES IN PART Plaintiff's motion and orders the following relief.

**Plaintiff's Document Requests**

The following refers to Plaintiff's document requests as numbered in Defendants' responses to Plaintiff's first request for production of documents, Docket #23-2. Unless

otherwise specified, Defendants shall produce all responsive documents and affidavits to Plaintiff by December 5, 2017.

- Request #1: By November 22, 2017, Plaintiff will identify to Defendants all missing warrant article votes for annual town meetings and special town meetings from 2008 through 2016. Defendants will produce any responsive documents, as well as all warrant articles and corresponding votes from 2003 through 2008.
- Request #2: Defendants will provide Plaintiff an affidavit of Ms. Mary Devlin that identifies the date of each executive session of the Board of Selectmen from February 4, 2014 through the present and states whether minutes of each such executive session exist. If any scheduled executive session was not held, or if an executive session was held but no minutes were created, the affidavit will explain why. Defendants will produce to Plaintiff any responsive minutes not yet produced.
- Request #3: Plaintiff has withdrawn his motion to compel as to this request.
- Request #4: Plaintiff has withdrawn his motion to compel as to this request.
- Request #5: Defendants will provide Plaintiff an affidavit of the Charlton Town Clerk attesting that, based on the Clerk's review of Town files and on representations of a representative of the Finance Committee, all existing Finance Committee meeting minutes have been produced.
- Request #6: The only Personnel Board meeting still in dispute is the Board's meeting of July 29, 2014. Defendant will provide Plaintiff an affidavit attesting that minutes for this meeting were never created.
- Requests ##7 and 8: The parties have agreed to narrow these requests to correspondence from February 4, 2014 through the present. Defendants will provide Plaintiff affidavits

from the Charlton Town Clerk, Defendant Craver, and Defendant Swensen. Each affidavit will specify the contents and date ranges of all word searches that each affiant has conducted of all applicable personal and work email accounts. Each affidavit will further state that all responsive documents found during Defendants' searches have been produced to Plaintiff.

- Request #9: By December 5, 2017, Defendants will subpoena or request from Human Resources Services, Inc. ("HRS") HRS's entire file for work it performed for the Town of Charlton, including all draft versions of HRS's Classification Plan. Defendants will produce all responsive documents to Plaintiff by December 12, 2017.
- Request #10: Defendants have fully complied with this request.
- Request #11: Plaintiff has withdrawn his motion to compel as to this request.

#### **Defendants' Redactions to the Board of Selectmen's Executive Session Minutes**

The Court finds that some of Defendants' proposed redactions are improper. By December 5, 2017, Defendants are to produce to Plaintiff newly redacted versions of the following minutes of the Board of Selectmen's Executive Sessions. Defendants may only redact the information listed below.

- July 22, 2014: Paragraph 6, portions of lines 3 and 4 (as discussed ex parte).
- May 12, 2015: Paragraph 4, as originally redacted; and paragraph 6, sentences 2 and 3.
- June 21, 2016: Paragraph 5.

The Court reserves decision on Defendants' proposed redactions to the minutes dated February 17, 2015 and January 5, 2016.<sup>1</sup> Defendants are to provide the Court with legal authority supporting its proposed redactions by December 5, 2017.

It is so ordered.

/s/ David H. Hennessy  
David H. Hennessy  
United States Magistrate Judge

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<sup>1</sup> The Court finds that Defendants' proposed redactions of paragraphs 2 and 3 of the minutes dated January 5, 2016 are proper. The only proposed redaction of that document on which the Court reserves decision is of paragraph 4.